

REMARKS

In view of the above amendments and the following remarks, applicants respectfully request reconsideration of the outstanding office action.

The rejection of claim 1 under 35 U.S.C. §102(b) as anticipated by Audran et al., J. Immunol. Methods, 188:147-154 (1995) ("Audran") is respectfully traversed.

Audran relates to the administration of antibodies, such as anti-CD63, as a use for a transporter for a drug intended to be internalized. Audran discloses isolation of macrophages from the cells of healthy donors.

Audran does not disclose or suggest a method of decreasing HIV entry into macrophage cells susceptible to infection with a strain of HIV. Further, Audran does not disclose or suggest a method which includes exposing the cells to an anti-CD63 antibody in an amount effective to bind the anti-CD63 antibody to CD63 present in the cells whereby the CD63 facilitated HIV entry into the cells is decreased.

It is the position of the U.S. Patent and Trademark Office that the teaching of Audran is identical to the claimed invention as the effect of preventing HIV entry is an inherent feature of Audran. Applicants respectfully disagree. There is no teaching or suggestion in Audran of a method of decreasing CD63 facilitated HIV entry into macrophage cells susceptible to infection with a strain of HIV. Audran relates exclusively to one particular type of cells, i.e. cells from healthy donors (see page 148, first column, last paragraph). There is no teaching or suggestion, inherent or otherwise, that such cells are susceptible to infection with a strain of HIV. Therefore, Audran does not teach, even inherently, the claimed invention. Further, there is no teaching or suggestion in Audran of administering an anti-CD63 antibody in an amount effective to bind the anti-CD63 antibody to CD63 present in the cells whereby the HIV entry into the cells is decreased. There is no teaching, inherent or otherwise, of the effective amounts of antibody which would result in decreased HIV entry into the cells. It is the position of the PTO that the preventing of HIV entry is considered to be an inherent feature of the administration of an anti-CD63

antibody. Applicants respectfully disagree. As set forth in the present claims, an anti-CD63 antibody is administered in an amount effective to bind the anti-CD63 antibody to CD63 present in the cells whereby the HIV entry into the cells is decreased. There is no teaching in Audran, inherent or otherwise, of the effective amount which decreases HIV entry into the cells. Lastly, Audran does not disclose, inherent or otherwise, a step of identifying a subject having macrophage cells susceptible to infection with HIV.

The fact that a certain result may occur or be present in the prior art is not sufficient to establish inherency (Manual of Patent Examining Procedure (MPEP) 2112 IV). The mere fact that a certain thing may result from a given set of circumstances is not sufficient (Id.). Further, a prior art reference must teach every element of the claim to anticipate the claim (MPEP 2131). In the present case, Audran does not teach, inherently or otherwise, the claim limitations of the present case. Accordingly, the rejection is improper and should be withdrawn.

In view of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

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